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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,239	07/05/2000	Terry A. Johnson	023890-031 (SD-8267)	4991

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EXAMINER

NGUYEN, HUNG

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 05/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,239

Applicant(s)

JOHNSON ET AL.

Examiner

Henry Hung V Nguyen

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 10 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 11 and 14-15, 24 are rejected under 35 U.S.C. 102(e) as being anticipated by McCullough (U.S.Pat. 6,097,474).

With respect to claims 1-2, 11, 14-15, 24, McCullough discloses an exposure device having an illumination system (10) for generating an energy beam and a shutter (20) including a frame (28) defining an aperture and a plurality of rectangular blades which are secured to the frame and parallel to each other (see fig.3) and means for moving the blades to block or to allow the energy beam to travel through the aperture (see col.4, lines 60 to column 6 line 51; and col.13, lines 27-30).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 4-9, 12-13 and 17-22, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCullough (U.S.Pat. 5,966,202).

With respect to claims 4-5, 8-9, 12-13, McCullough or Nakamori discloses an shutter for adjusting a beam of radiation in an exposure device comprising all basic structures as set forth in the instant claims as discussed above except for the width of the blade as well as the cross sectional area of the radiation beam or a time period for opening or closing of the blades. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select claimed parameters as specified in the instant claims, since it has been held that where the general conditions of a claim are disclosed in the prior art , discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

As to claims 6-7 and 19-20, McCullough lacks to disclose the material of the blade as claimed. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to choose known materials as specified in claims 6-7 and 19-20 for making of blade since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCullough (U.S.Pat. 6,097,474) in view of Styrnol et al (U.S.Pat. 6,252,935).

With regard to claim 3, McCullough discloses an exposure apparatus comprising substantially all limitations of the instant claim as set forth above. McCullough does not expressly disclose the drive means for driving the blades including a solenoid which is enclosed

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in a vacuum case. However, this structure is well known in the art. For instance, Styrnol et al teaches a motor (13) having a rotor /solenoid (16) placed on a vacuum housing (3). This provides a clear suggestion that it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a motor having a solenoid placed in a vacuum housing as taught by Styrnol into the exposure device of McCullough for at least the purpose of preventing the foreign substances discharged from the solenoid being transferred to the shutter blades and thus increasing the accuracy of the shutter device.

Allowable Subject Matter

6. Claims 10 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

7. Applicant's amendment filed March 7, 2002 have been entered. Claims 1, 3, 5, 10, 14, 16 and 23 have been amended. Applicant's arguments have been carefully reviewed but have not been found to be persuasive. The applicant is reminded that the claimed subject matter to examination will be given their broadest reasonable interpretation consistent with the specification, and limitations appearing in the specification are not be read into the claims. In re Yamamoto, 740 F. 2d 1569, 1571, 222 USPO 934, 936 (Fed.Cir. 1984).

With this in mind, the discussion herein will focus on how the terms and relationships thereof in the claims are met by the references. Response to any limitation that is not in the

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claims or any argument that is irrelevant to or does not relate to any specific claimed language will not be warranted.

In response to the office action, applicant has amended independent claims that add the limitations of “means for rotating the frame of the shutter” and “wherein the positions of the individual blades remain fixed relative to each other” Then, applicant argues that while the blades move relative to each other in the device of McCullough, in the present invention, the blades positions are fixed relative to each other. The examiner respectfully disagrees with the applicant. McCullough meets the limitations as broadly claimed because even though the blades (48) move relative to each other but the positions of the individual blades remain fixed relative to each other since each individual blades are fixed to push rod (34) by pivot pin (46) (see fig.3 and 4).

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry Hung V Nguyen whose telephone number is 703-305-6462. The examiner can normally be reached on Monday-Friday (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on 703-308-2847.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

Henry Hung V Nguyen
Examiner
Art Unit 2851

Hvn 5/13/02


RUSSELL ADAMS
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